HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1293 of 2004 (SS)

Rajesh Puri s/o Sri Bhagwanpuri
R/o Quarter No. 5 E.H. Hostel, Sec.6 BHEL
Ranipur (Haridwar) ..... Petitioner

versus

1. State of Uttaranchal
2. Director Local Bodies, Uttaranchal
3. Nagar Panchayat BHEL Ranipur
4. District Magistrate, Haridwar ..... Respondents

Sri Sharad Sharma, Advocate for the petitioner
Standing Counsel for the respondents.

Dated: February 17, 2006

Hon'ble Rajesh Tandon, J.

Heard Sri Sharad Sharma counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to pay salary to the petitioner equivalent to the regular Executive Officer of Nagar Palika.

Briefly stated the petitioner was posted as Incharge Executive Officer, B.H.E.L. Nagar Panchayat on 3.9.2003. The Presiding Officer/ Additional District Magistrate passed order on 13.1.2004 verifying the signatures of the petitioner. The grievance of the petitioner is that since he has been working as Incharge Executive Officer from 3.9.2003, he is also entitled to get the salary of that post. The counsel for the petitioner has referred Rule 22-B of the Financial Hand Book (Vol. 2 to 4) which reads as under:

"22.B. Notwithstanding anything contained in these Rules, where a Government servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed either in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attached to the post held by him, his initial pay in the time scale of the higher post shall be fixed the stage next above the pay arrived at by notionally increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued."

The petitioner has submitted that he has made several representations to the respondents for payment of the salary to be paid to him for the post of Executive Officer, which were duly forwarded by the Presiding Officer, Nagar Panchayat but no order has been passed on the representations of the petitioner.

Counter affidavit has been filed by the respondents and it has been admitted that the petitioner was working as Incharge Executive Officer he is not entitled to get salary of the Executive Officer according to rules.

In view of above, liberty is given to the petitioner to file a fresh representation within a week after obtaining certified copy of this order to the appropriate authority, who shall decide the same within a period of six weeks thereafter.

Subject to the aforesaid observations, the writ petition is disposed of. No order as to costs.

Dated: 17.2.2006 **Rajesh Tandon J.**

*Dhyani